



BILLING CODE: 4410-09-P

**UNITED STATES DEPARTMENT OF JUSTICE
DRUG ENFORCEMENT ADMINISTRATION**

**DEVRA HAMILTON, N.P.
DECISION AND ORDER**

On November 24, 2014, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Devra Hamilton, N.P. (hereinafter, Respondent), of Las Vegas, Nevada. GX 1. The Show Cause Order proposed the revocation of Respondent's Certificate of Registration MH2194176, on the ground that she does not currently possess authority to handle controlled substances in Nevada, the State in which she is registered with the Agency. *Id.* at 1-2 (citing 21 U.S.C. § 824(a)(3)).

The Show Cause Order specifically alleged that on January 16, 2014, the Nevada State Board of Nursing suspended Respondent's license as an Advance Practitioner of Nursing (APN), after she admitted that the Board had "sufficient evidence to prove that [she] prescribed large amounts of unit doses of controlled substances between January 1, 2012 and December 31, 2012, that [she] failed to adequately assess patients prior to prescribing controlled substances, and that [she] documented inaccurate and contradictory information in medical records." *Id.* at 1 (citations omitted). The Show Cause Order further alleged that in March 2014, the Nevada State Board of Pharmacy revoked her license to prescribe controlled substances based on the Nursing Board's suspension of her APN license. *Id.* The Order thus alleged that Respondent is "currently

without authority to handle controlled substances” in the State in which she is registered, and that her registration is therefore subject to revocation.¹ *Id.* at 2.

As evidenced by the signed return receipt card, on December 1, 2014, Respondent was served with the Show Cause Order. GX 2. On January 6, 2015, Respondent filed a letter (dated Jan. 2, 2015) which presented her position on the issues involved in the Nursing Board’s proceeding. GX 3. Respondent did not, however, dispute that DEA “must revoke” her registration. *Id.* Nor did she request a hearing on the allegations of the Show Cause Order. *Id.*

As explained above, under 21 CFR 1301.43(c), “[a]ny person entitled to a hearing . . . may, within the period permitted for filing a request for a hearing or a notice of appearance, file with the Administrator a waiver of an opportunity for a hearing . . . together with a written statement regarding such person’s position on the matters of fact and law involved in such hearing.” However, DEA regulations require that the written statement be filed “within 30 days after the date of receipt of the” Show Cause Order, 21 CFR 1301.43(a), and specify that documents “shall be dated and deemed filed upon receipt by the Hearing Clerk.” *Id.* § 1316.45. Thus, I find that Respondent’s letter was untimely and do not consider it. I further find that Respondent has waived her right to a hearing.

Thereafter, on January 28, 2015, the Government submitted a Request for Final Agency Action with accompanying documentation, including the Nursing Board’s Order suspending her APN license and a printout from the Nevada State Board of Pharmacy showing the status of her state controlled substance license. I make the following findings of fact.

FINDINGS

¹ The Show Cause Order also notified Respondent of her right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, the procedure for electing either option, and the consequence of failing to elect either option. *Id.* at 2 (citing 21 CFR 1301.43).

Pursuant to 5 U.S.C. § 556(e), I take official notice of Respondent's registration record with the Agency. According to that record, Respondent is currently registered as a mid-level practitioner, with authority to dispense controlled substances in schedules II through V, at the address of 9010 W. Cheyenne, Las Vegas, NV 89129. Respondent's registration does not expire under October 31, 2016.

On January 8, 2014, Respondent entered into an "Agreement for Probation and Suspension of [her] Advanced Practitioner of Nursing Certificate"; on January 16, 2014, the Board approved the agreement. Therein, Respondent denied the allegations raised by the Board, but admitted that "the Board ha[d] sufficient evidence to prove that she prescribed large amounts of unit doses of controlled substances between January 1, 2012 and December 31, 2012, that she failed to adequately assess patients prior to prescribing controlled substances, and that she documented inaccurate and contradictory information in medical records." GX 4, at 1. Respondent further agreed to the Board's issuance of a decision and order which suspended her Advanced Practitioner of Nursing Certificate "for a minimum of one year." *Id.* at 3. According to the online records of the Board, Respondent's Advanced Practitioner of Nursing Certificate either expired on January 16, 2014 or remains suspended as of this date. So too, her Board of Pharmacy license remains suspended as of this date.

DISCUSSION

The Controlled Substances Act (CSA) grants the Attorney General authority to revoke a registration "upon a finding that the registrant . . . has had [her] State license or registration suspended [or] revoked . . . and is no longer authorized by State law to engage in the . . . distribution [or] dispensing of controlled substances." 21 U.S.C. § 824(a)(3). Moreover, DEA has long held that a practitioner must be currently authorized to handle controlled substances in

the “jurisdiction in which [she] practices” in order to maintain a DEA registration. *See* 21 U.S.C. § 802(21)(“the term ‘practitioner’ means a physician . . . or other person licensed, registered or otherwise permitted, by . . . the jurisdiction in which [she] practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice.”); *see also id.* § 823(f) (“The Attorney General shall register practitioners . . . to dispense . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which [she] practices.”). As these provisions make plain, possessing authority under state law to dispense controlled substances is an essential condition for holding a DEA registration. *See David W. Wang*, 72 FR 54297, 54298 (2007); *Sheran Arden Yeates*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci*, 58 FR 51104, 51105 (1993); *Bobby Watts*, 53 FR 11919, 11920 (1988).

Here, the evidence shows that both Respondent’s Advance Practitioner of Nursing Certificate and her state Controlled Substance License have been suspended by the Nevada State Board of Nursing and the Nevada State Board of Pharmacy respectively. I therefore hold that Respondent no longer possesses authority under Nevada law to dispense controlled substances and that she is therefore not entitled to maintain her DEA registration. *See* 21 U.S.C. §§ 802(21), 823(f), and 824(a)(3). Accordingly, I will order that her registration be revoked.

ORDER

Pursuant to the authority vested in me by 21 U.S.C. § 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration MH2194176 issued to Devra A. Hamilton, A.P.N., be, and it hereby is, revoked. I further order that any pending application of Devra A. Hamilton, A.P.N., to renew or modify her registration, be, and it hereby is, denied. This Order is effective [Insert Date THIRTY (30) Days from Date of Publication in the Federal Register].

Dated: August 10, 2015

Chuck Rosenberg
Acting Administrator

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